

# Union Calendar No. 264

107<sup>TH</sup> CONGRESS  
2D SESSION

# H. R. 4560

**[Report No. 107-443]**

To eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2002

Mr. TAUZIN (for himself, Mr. DINGELL, Mr. UPTON, Mr. MARKEY, Mr. BARTON of Texas, Mr. WAXMAN, Mr. GILLMOR, Mr. HALL of Texas, Mr. GREENWOOD, Mr. BOUCHER, Mr. DEAL of Georgia, Mr. TOWNS, Mr. BURR of North Carolina, Mr. PALLONE, Mr. WHITFIELD, Mr. BROWN of Ohio, Mr. NORWOOD, Mr. GORDON, Mrs. CUBIN, Mr. RUSH, Mr. SHIMKUS, Ms. ESHOO, Mr. PICKERING, Mr. STUPAK, Mr. FOSSELLA, Mr. ENGEL, Mr. BLUNT, Mr. SAWYER, Mr. TOM DAVIS of Virginia, Mr. WYNN, Mr. BRYANT, Mr. GREEN of Texas, Mr. EHRLICH, Ms. MCCARTHY of Missouri, Mr. BUYER, Mr. STRICKLAND, Mr. RADANOVICH, Ms. DEGETTE, Mr. BASS, Mr. BARRETT of Wisconsin, Mr. PITTS, Mr. LUTHER, Mrs. BONO, Mrs. CAPPS, Mr. WALDEN, Mr. DOYLE, Mr. TERRY, Mr. JOHN, Mr. FLETCHER, Ms. HARMAN, Mr. SHADEGG, and Mrs. WILSON of New Mexico) introduced the following bill; which was referred to the Committee on Energy and Commerce

MAY 7, 2002

Additional sponsors: Ms. DUNN, Mr. PETERSON of Minnesota, and Mr. CUNNINGHAM

MAY 7, 2002

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# A BILL

To eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Auction Reform Act  
5       of 2002”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

8               (1) Circumstances in the telecommunications  
9       market have changed dramatically since the auc-  
10      tioning of spectrum in the 700 megahertz band was  
11      originally mandated by Congress in 1997, raising se-  
12      rious questions as to whether the original deadlines,  
13      or the subsequent revision of the deadlines, are con-  
14      sistent with sound telecommunications policy and  
15      spectrum management principles.

16              (2) No comprehensive plan yet exists for allo-  
17      cating additional spectrum for third-generation wire-  
18      less and other advanced communications services.  
19      The Federal Communications Commission should  
20      have the flexibility to auction frequencies in the 700  
21      megahertz band for such purposes.

1           (3) The study being conducted by the National  
2           Telecommunications and Information Administration  
3           in consultation with the Department of Defense to  
4           determine whether the Department of Defense can  
5           share or relinquish additional spectrum for third-  
6           generation wireless and other advanced communica-  
7           tions services will not be completed until after the  
8           June 19th auction date for the upper 700 megahertz  
9           band, and long after the applications must be filed  
10          to participate in the auction, thereby creating fur-  
11          ther uncertainty as to whether the frequencies in the  
12          700 megahertz band will be put to their highest and  
13          best use for the benefit of consumers.

14          (4) The Federal Communications Commission  
15          is also in the process of determining how to resolve  
16          the interference problems that exist in the 800  
17          megahertz band, especially for public safety. One op-  
18          tion being considered for the 800 megahertz band  
19          would involve the 700 megahertz band. The Com-  
20          mission should not hold the 700 megahertz auction  
21          before the 800 megahertz interference issues are re-  
22          solved or a tenable plan has been conceived.

23          (5) The 700 megahertz band is currently occu-  
24          pied by television broadcasters, and will be so until  
25          the transfer to digital television is completed. This

1 situation creates a tremendous amount of uncer-  
 2 tainty concerning when the spectrum will be avail-  
 3 able and reduces the value placed on the spectrum  
 4 by potential bidders. The encumbrance of the 700  
 5 megahertz band reduces both the amount of money  
 6 that the auction would be likely to produce and the  
 7 probability that the spectrum would be purchased by  
 8 the entities that valued the spectrum the most and  
 9 would put the spectrum to its most productive use.

10 (6) The Commission’s rules governing voluntary  
 11 mechanisms for vacating the 700 megahertz band by  
 12 broadcast stations—

13 (A) produced no certainty that the band  
 14 would be available for advanced mobile commu-  
 15 nications services, public safety operations, or  
 16 other wireless services any earlier than the ex-  
 17 isting statutory framework provides; and

18 (B) should advance the transition of digital  
 19 television and must not result in the unjust en-  
 20 richment of any incumbent licensee.

21 **SEC. 3. REPEAL OF DEADLINES FOR SPECTRUM AUCTIONS.**

22 (a) COMMUNICATIONS ACT OF 1934.—Section  
 23 309(j)(14)(C)(ii) of the Communications Act of 1934 (47  
 24 U.S.C. 309(j)(14)(C)(ii)) is amended by striking the sec-  
 25 ond sentence.

1 (b) BALANCED BUDGET ACT OF 1997.—Section  
 2 3007 of the Balanced Budget Act of 1997 (111 Stat. 269)  
 3 is amended by adding at the end the following new sen-  
 4 tence: “This section shall not apply to the band of fre-  
 5 quencies between 698 and 806 megahertz, inclusive.”.

6 (c) CONSOLIDATED APPROPRIATIONS ACT.—Para-  
 7 graphs (2) and (3) of section 213(a) of H.R. 3425 of the  
 8 106th Congress, as enacted into law by section 1000(a)(5)  
 9 of an Act making consolidated appropriations for the fiscal  
 10 year ending September 30, 2000, and for other purposes  
 11 (Public Law 106–113; 113 Stat. 1501A–295), are re-  
 12 pealed.

13 **SEC. 4. TERMINATION OF SCHEDULED AUCTIONS.**

14 (a) TERMINATION.—The Federal Communications  
 15 Commission shall not commence or conduct auctions 31  
 16 and 44 on June 19, 2002, as specified in the public notices  
 17 of March 19, 2002, and March 20, 2002 (DA 02–659 and  
 18 DA 02–563).

19 (b) REPORT.—Within one year after the date of en-  
 20 actment of this Act, the Commission shall submit a report  
 21 to the Congress—

22 (1) specifying when the Commission intends to  
 23 reschedule auctions 31 and 44; and

24 (2) describing the progress made by the Com-  
 25 mission in the digital television transition and in the

- 1 assignment and allocation of additional spectrum for
- 2 advanced mobile communications services that war-
- 3 rants the scheduling of such auctions.



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